

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

CIVIL NO. 2:06CV3

MELVIN THOMAS LONG,)
Petitioner,)
Vs.) **ORDER OF DISMISSAL**
WARDEN, USP HAZELTON,)
Respondent.)

THIS MATTER is before the Court on the Petitioner's motion entitled, "Habeas Corpus Petition pursuant to 28 USC §451, et seq (1940)," filed January 24, 2006.

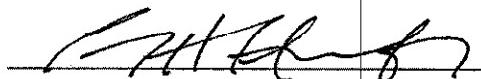
Petitioner seeks immediate release from custody and avers that he has a right to bring this petition pursuant to § 451 because Title 28 U.S.C. §§ 2255 and 2241 "were never enacted into positive law, are unconstitutional on their face, and are null and void ad initio." **Petitioner's Motion, at 1.** Such allegations are patently frivolous.

Title 28, United States Code, Section 451 et seq., contains general provisions regarding the organization of the United States Courts. It is a

mystery to the Court how the Petitioner has construed this section to provide any grounds to pursue habeas corpus relief. Inasmuch as the Petitioner has specifically stated that "this is a habeas petition pursuant to 28 USC §451, et seq. (1940), and not a motion or petition pursuant to 28 USC § 2255 (1948) or 28 USC § 2241 (1948)," the Court finds the motion is totally without merit and is dismissed as frivolous. *Id.*, at 2.

IT IS, THEREFORE, ORDERED that the Petitioner's motion is **DENIED**, and this matter is hereby **DISMISSED WITH PREJUDICE**.

Signed: February 21, 2006



Lacy H. Thornburg
United States District Judge

